BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CONEJO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022070464

ORDER FINDING COMPLAINT SUFFICIENTLY PLEADED

AUGUST 2, 2022

On July 13, 2022, Student filed and served by email a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Conejo Valley Unified School District. On July 19. 2022, Conejo filed a motion to dismiss Student's complaint for improper service, which was denied by Order dated July 22, 2022. On July 29, 2022, Conejo filed a notice of insufficiency as to the complaint. On August 1, 2022, Student filed an opposition to the notice of insufficiency, and seeks sanctions against Conejo for a frivolous filing. Conejo filed a reply on August 2, 2022.

The named parties have the right to challenge the complaint's sufficiency. (20 U.S.C. § 1415(b) & (c).) The party filing the complaint is not entitled to a hearing

unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

A complaint is sufficient if it: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education; (2) includes facts about the problem; and (3) includes a proposed resolution to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes, and whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. Of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

Student's complaint was filed and served on July 13, 2022. Conejo's notice of insufficiency was dated, filed with OAH, and served on July 29, 2022, which is more than 15 days after Conejo received Student's complaint. Conejo's notice of insufficiency was not timely filed. Therefore, Student's complaint is deemed sufficient.

Conejo's delay is unexplained and unexcused in light of the July 22, 2022 Order Denying Motion to Dismiss for Failure to Properly Serve. The sworn declaration of Conejo's director of special education, attached to Conejo's earlier motion to dismiss, acknowledged receipt of Student's complaint on July 13, 2022. OAH issued the Order denying Conejo's motion to dismiss on July 22, 2022, finding that Conejo received Student's emailed complaint on July 13, 2022. Nonetheless, Conejo untimely delayed in filing the notice of insufficiency.

This Order does not address Student's request for sanctions contained in Student's opposition to the notice of insufficiency, which motion has different standards and timelines from a notice of insufficiency. This Order does not bar Student from filing a request for sanctions as a separately noticed motion.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings